



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/318,438	05/25/1999	BRAD PITZEL	REALNT-034A	1421

7590 04/16/2003

KNOBBE MARTENS OLSON & BEAR L L P  
620 NEWPORT DR 16TH FLOOR  
NEWPORT BEACH, CA 92660

EXAMINER

DAS, CHAMELI

ART UNIT	PAPER NUMBER
----------	--------------

2122

DATE MAILED: 04/16/2003

14

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/318,438

Applicant(s)

PITZEL ET AL.

Examiner

C.DAS

Art Unit

2122

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 March 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-56 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-56 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

Art Unit: 2122

1. This action is in response to RCE filed on 3/28/03.
2. Claims 1, 13, 19, 20, 32, 38, 39 and 41 have been amended.
3. New claims 47-65 have been added.

***Claim Objections***

4. Claim 55 is objected to because of the following informalities:

In claim 55 line 2 “ server is is connected ” should be “ server is connected” on line 2.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 13-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As per claim 13, the limitation “ identifying at least one requested component”, cause the claim vague and indefinite. Claim 13 does not recite “request” for any component. The examiner is interpreting this limitation as “ a second computer operably connected to the first

Art Unit:

computer, the second computer associated with one or more installable components and received a request for the upgrade of one or more components from the first computer;”.

Claims 14-18 depend on claim 13 and are rejected for the same reason as claim 13.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

8. Claims 1-2, 5-14, 16-21, 24-30, 32-33, 36-39, 41-42, 45-48, 51-54 are rejected under 35

U.S.C. 102(e) as being anticipated by Cheng et al (Cheng), US 6,151,643

***As per claim 1, Cheng discloses:***

***- receiving a request for the upgrade of one or more components*** (column 17, lines 40-41, “The client application 104 requests, for a software product to be updated”) and (column 19, lines 52-54, “requesting notification about software updates for specific products”)

***- determining one or more system conditions regarding the computer including determining whether at least one component that is necessary for the execution of the requested components is located at the computer; and identifying one or more components for installations on the computer based upon the request and the system conditions*** ( column 5,

Art Unit:

lines 2- 17, “ The format of the software update is determined ... The client application is executed on a periodic basis and connects to a update database as described above to perform the operations of downloading the portions of the database, determining the relevant software updates to be retrieved, retrieving same from their network locations, installing the software updates on the client computer, and removing installed updates if desired”) and (column 20, lines 1-11, “information about the software update ... verifies its integrity, and installs the software update directly”).

*Claim 20 is the system claim* corresponding to the method claim 1, and rejected under the same reason set forth in rejection of the claim 1 and further Cheng discloses a type of operating system that is executing on the computer (col 5, lines 10-14, “The client application is executed on a periodic basis and connects to a update database as described above to perform the operations of downloading the portions of the database”), where the client application is the operating system which is executing in the computer because client application includes all the information about the installation procedures, installation programs and files (col 8, lines 32- 40, “ the client application 104 performs an installation process 208 ... along with installation information, such an installation program, files and the like”).

*As per claim 2, 21, 33, Cheng discloses:*

- *receiving a configuration file that is associated with the request for the upgrade as claimed* (column 8 lines 56-61, “software update is physically installed on the client computer 101. Each software update is associated with information that describes that particulars for the

Art Unit:

installations, such as configuration, decompression or other information. The installation is performed in conformance with such information”), update (requested by client) is installed on the client computer and each update is associated with configuration information shows that receiving a configuration file that is associated with the request for the upgrade.

*As per claim 5, 6, 7, 24, 25, 36, 37, Cheng discloses:*

*- reading only an identifier in the configuration file* ( column 11, lines 38-46, “The product locator table 803 associates individual scan\_strings 813 **with a product name** 815, instructions 816 for determining **a version number** or release number ... in the system configuration file”)

*- sending at least a portion of the content of the configuration file to a component server* (column 6, lines 24-26, “the client computer includes a **client application 104 that communicates with the service provider** computer 102), where **client application is the portion of the configuration file** (column 7, lines 55-56) and **service provider is the component server**, the client application interacts with the server indicates that sending the portion of the configuration file to the server as claimed.

*As per claim 8, 26, Cheng discloses:*

*- storing the configuration file* ( column 4 lines 51-59, “The update database of software update information is preferably maintained ... configuration information”).

*As per claim 9, 27, Cheng teaches:*

Art Unit:

- *system condition includes one or more computer readable modules* (column 13, lines 40-42, “ The client application 104 may be provided to the client computer 101 on a **computer readable media**”)

*As per claim 10, 28, Cheng teaches:*

- *language that is associated with one or more computer readable modules resides on the computer* (column 13, lines 40-42), where client application is stored in computer readable medium in a computer inherently including client application is written in a language which is readable by a computer.

*As per claim 11, 29, Cheng teaches:*

- *system includes operating system that is executing* (column 10, lines 4-5, “The service provider computer 102 executes a conventional operating system 721”).

*As per claim 12, 30, Cheng teaches:*

- *identifying one or more programs upon receiving the request as claimed* is shown in Abstract, lines 7-17, “The service provider computer system stores in an update database information about the software updates of the diverse software vendors, identifying the software products for which software updates are available, their location on the network at the various software vendor computer systems, information for identifying in the client computers the software products stored thereon, and information for determining for such products, which have software updates available. Users of the client computers connect to the service provider computer and obtain a current version of portions of the database” ), upon receiving the request is

Art Unit:

shown in (column 17, lines 40-42, "The client application 104 requests, for a software product to be updated, a transaction permission from the service provider computer 102").

*As per claim 13, Cheng teaches computer having one or more system resources* is shown in Fig 2 and (column 5 lines 38-40), where client computer is the first computer

- *second computer operably connected to the first computer* as claimed is shown in Fig 1, where client computer is the first computer and service provide computer is the second computer

- *second computer associated with one or more installable components* is shown in Abstract lines 1-17, the updates are installable is shown in Abstract lines 1-3

- *configuration file is readable by the first computer* is shown in (column 13, lines 40-42, " The client application 104 may be provided to the client computer 101 on a **computer readable media**"), where the client application is the part of a configuration file and client computer is the first computer

- *configuration file identifying at least one requested component* (Abstract lines 7-12), where update database information contains the configuration file

- *an upgrade manager executing on the first computer, the upgrade manager configure to transmit information about the system resources of the first computer to the second computer* (column 5 lines 10-17), where the **client application is the upgrade manager** and it connect to a update database shows that it connects to a second computer because the update data base is stored in the server computer (Abstract lines 7-8)



Art Unit:

- *the information including indication of components of an operating system that is executing in the first computer* (column 5, lines 2- 17, “ The format of the software update is determined ... The *client application is executed* on a periodic basis and connects to a update database as described above to perform the operations of downloading the portions of the database, determining the relevant software updates to be retrieved, retrieving same from their network locations, installing the software updates on the client computer, and removing installed updates if desired”), where the client application is the operating system which is executing in the computer because client application includes all the information about the installation procedures, installation programs, files and performs the installation process (col 8, lines 32- 40, “ the client application 104 performs an installation process 208 ... along with installation information, such an installation program, files and the like”).

- *an upgrade handler executing on the second computer, the upgrade handler configure to transmit the location of one or more installable components from the second computer to the first computer based upon the at least one requested component as claimed* (column 3, lines 64-67, column 4 lines 1-6, column 4, lines 51-67), where **update information is the upgrade handler** and it executes periodically in service provider (server computer, which is a second computer), the update information provides the download information of the installable component to the client computer (first computer) from vendors.

*As per claim 14, Cheng teaches:*

- *configuration file is formatted* is shown in column 5 line 2-6.

Art Unit:

*As per claim 16, Cheng teaches upgrade managers retrieves the configuration file*  
(column 5, lines 10-15).

*As per claim 17, Cheng teaches upgrade managers parse the configuration file*  
(column 20, lines 4-12).

*As per claim 18, Cheng teaches network* as claimed is shown in Abstract, lines 4-7.

*As per claim 19, Cheng teaches* client computer operably connected to the network, identifying one or more client computer, component server, identifying the location of one or more components as claimed is shown in Abstract, column 8, lines 55-61

*- including operating system that are executing on the client computer* (column 5, lines 2- 17, “The format of the software update is determined ... The *client application is executed* on a periodic basis and connects to a update database as described above to perform the operations of downloading the portions of the database, determining the relevant software updates to be retrieved, retrieving same from their network locations, installing the software updates on the client computer, and removing installed updates if desired”), where the client application is the operating system which is executing in the computer because client application includes all the information about the installation procedures, installation programs, files and performs the installation process (col 8, lines 32- 40, “ the client application 104 performs an installation process 208 ... along with installation information, such an installation program, files and the like”).

Art Unit:

*For claim 32, see the rejection of claim 1 above and further Cheng discloses the operating system that is executing on the computer* (column 5, lines 2- 17, “ The format of the software update is determined ... The *client application is executed* on a periodic basis and connects to a update database as described above to perform the operations of downloading the portions of the database, determining the relevant software updates to be retrieved, retrieving same from their network locations, installing the software updates on the client computer, and removing installed updates if desired”), where the client application is the operating system which is executing in the computer because client application includes all the information about the installation procedures, installation programs, files and performs the installation process (col 8, lines 32- 40, “ the client application 104 performs an installation process 208 ... along with installation information, such an installation program, files and the like”).

*As per claim 38, Cheng* teaches client computer having processor, computer readable storage, data communication is shown in column 13, lines 1-16, for the rest of the limitations, see the rejection of claim 13 and 19 above.

*As per claim 39, Cheng* teaches a server computer has the same feature as the client computer is shown in Figure 7, for the rest of the limitations, see the rejection of claim 13 and 19 above.

*As per claim 41, Cheng discloses:*

- *determining one or more client conditions regarding the computer* (column 17, line 40-55)

Art Unit:

*the client condition including one or more operating system that are executing on the first computer* (column 5, lines 2- 17, “ The format of the software update is determined ... The *client application is executed* on a periodic basis and connects to a update database as described above to perform the operations of downloading the portions of the database, determining the relevant software updates to be retrieved, retrieving same from their network locations, installing the software updates on the client computer, and removing installed updates if desired”), where the client application is the operating system which is executing in the computer because client application includes all the information about the installation procedures, installation programs, files and performs the installation process (col 8, lines 32- 40, “ the client application 104 performs an installation process 208 ... along with installation information, such an installation program, files and the like”).

- *transmitting the request for the upgrade as claimed* (column 19, lines 50-55, column 17, lines 40-42)

- *installing one or more components based upon the client condition* ( column 5, lines 7-30 and column 18, lines 42-45).

*As per claim 42, Cheng discloses:*

- *receiving a configuration file in response to the request for the upgrade* (column 18, lines 16-45).

Art Unit:

***As per claim 45, 46, Cheng discloses:***

- sending at least some of the contents of the configuration file to a component server as claimed (column 10, lines 55-60) and column 10 lines 17, the service provide computer (server) includes the updated data base information inherently including sending some contents of the configuration file to the server as claimed.

***As per claim 47, 51, and 53, Cheng discloses client condition include a user identification number as claimed*** (col 7, lines 12-25, "n each case, the user logs in 201 to the service provider computer 102 with the client application 104 in a conventional manner, providing a user ID, a password, and the like. This information may be manually entered by the user via the client application 104, or more preferably, stored within the client application 104, and automatically provided once a connection between the client computer 101 and service provider computer 102 is established. If the user is not registered, then the service provider computer 102 in conjunction with inputs by the user, registers 202 the new user of the system. FIG. 3 illustrates a basic user interface 300 for registering the user. The user identifies himself or herself by name 301 and selects a password 303").

***As per claim 48, 52 and 54, Cheng discloses*** the client conditions include a preferred language (col 6, lines 51-62, " The various computers there by support the protocols for FTP, and HTTP, and provide for the display and rendering of HTML, VRML, or other text or interface description languages. Each computer 101, 102, 103 has a IP address that specifies its location on the network 106, thereby allowing such computers to communicate with each other in a

Art Unit:

conventional manner. Files, such as executables, binaries, and text files are identified within the various computers by universal resource locators (URLs) as known in the art”).

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 3, 4, 15, 22-23, 31, 34-35, 40, 43-44, 49-50, 55-56 are rejected under 35

U.S.C. 103(a) as being unpatentable over Cheng et al (Cheng) (US 6,151,643)

As per claim 3, 4, 15, 22, 23, 34, 35, Cheng discloses the determining software with associated with the file date (column 18, lines 49-54) . Cheng does not specifically teach determining the expiration time and stopping the identification step. Official notice is taken in determining expiration time and stopping the action. The modification would be obvious because one of the ordinary skill in the art would be motivated to avoid the old version and install the current version of the software efficiently.

***As per claim 31, Cheng discloses:***

***- configuration file identifying one or more components for installation on a client computer*** (Abstract lines 1-26)

***- a plurality of components identifiers as claimed*** (Abstract lines 7-17)

Art Unit:

Cheng does not specifically teach determining the expiration time and stopping the identification step. Official notice is taken in determining the expiration date and stop action.

The modification would be obvious because one of the ordinary skill in the art would be motivated to avoid the old version and install the current version of the files into the system.

*As per claim 40, Cheng discloses:*

*- a system for identifying components for installation* (abstract, lines 1-11)

*- a configuration server having a processor, a computer readable storage medium and data communication subsystem* (Fig 7 clearly shows the service provider (server) comprises a memory (computer readable storage), processor and network communication (data communication) system)

*- a configuration file maintained by the configuration server on the computer readable storage medium* (Fig 7, where DB modification tools, update database user profile database are all the part of the configuration file, which are maintained by the service provider (configuration server))

*- configuration file identifying one or more components for installation on a client computer* (Abstract lines 1-26)

*- configuration file comprising a plurality of components identifiers as claimed*  
(Abstract lines 7-17)

Art Unit:

- *configuration server transmits the file as claimed* (column 6, lines 10-30, column 8, lines 55-60, and column 17, lines 40-42).

Cheng does not specifically teach determining the expiration time and stopping the identification step. Cheng does not specifically teach determining the expiration time and stopping the identification step. Official notice is taken in determining the expiration date and stop action. The modification would be obvious because one of the ordinary skill in the art would be motivated to avoid the old version and install the current version of the files into the system.

***As per claim 43, 44***

Cheng does not specifically teach determining the expiration time and stopping the identification step. Cheng does not specifically teach determining the expiration time and stopping the identification step. Official notice is taken in determining the expiration date and stop action. The modification would be obvious because one of the ordinary skill in the art would be motivated to avoid the old version and install the current version of the files into the system.

***As per claim 49, Cheng discloses*** configuration file is stored on a configuration computer and is accessible for remote retrieval by a client computer, when the configuration file is transmitted to the client computer it initiates a request for at least one of the components (col 5, lines 7-32, col 8 lines 55-62, col 10 lines 55-62).

***As per claim 50, Cheng discloses the configuration file is stored on a configuration server*** (col 10, lines 55-62).



Art Unit:

*As per claim 55, Cheng discloses* configuration server is connected to the client computer via a network (col 6, lines 10-30).

*As per claim 56, Cheng does not specifically disclose that configuration file is in JAVA.* Official notice is taken in implementing the configuration file is in JAVA. The modification would be obvious because one of the ordinary skill in the art would be motivated to implement a secure and platform independent environment by using JAVA byte codes.

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

TITLE: Software product uninstallation system and method , US 6496875 B2

TITLE: High availability spanning tree with rapid reconfiguration with alternate port selection, 6535490 B1

TITLE: Method for determining whether to wake up a mobile station, US 6505058 B1 \*

TITLE: Implantable device and programmer system which permits multiple program, US 6512954 B2

TITLE: Web crawler system using plurality of parallel priority level queues having distinct associated download priority levels for prioritizing document downloading and maintaining document freshness, US 6263364 B1

TITLE: Configuring a wireless computer network to allow automatic access by a guest client device, US 6463473 B1

Art Unit:

TITLE: System and method for installing and using a temporary certificate at a remote site, US  
6233341 B1

TITLE: Distributed computer database system and method for performing object search, US  
6463433 B1

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chameli Das whose telephone number is 703-305-1339. The examiner can normally be reached on Monday-Friday from 8:00 A.M. to 4:30 P.M. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Greg Morse can be reached at 703-308-4789. The fax number for this group is 703-746-7239. An inquiry of general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 703-305-9600.

*Chameli Das*  
C. DAS

Patent Examiner

Art Unit: 2122

4/8/03